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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/697,479	10/26/2000	Karen Sarachik	WMI-004CN1 (8415/5)	8412

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EXAMINER

PATEL, KANJIBHAI B

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/697,479 ✓

Applicant(s)

GOLDPOCKET INTERACTIVE, INC.

Examiner

Kanji Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 52-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 52-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/25/02, 5/20/04, 6/8/04, 9/27/04, 12/6/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Preliminary amendment filed 2/25/02 has been entered.

Claims 1-51 are cancelled. Claims 52-61 are added new.

Claims 52-61 are pending in this application.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 52-61 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 and 7-10 of U.S. Patent No. 6,879,720 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because they set forth subject matters, which are obvious over each other because each of the limitations of the claims in the instant application are substantially defined by the Patent claims. Specifically, with respect to claim 52 of the instant application, the Patent claim 1 (also claim 7) defines a method of analyzing elements of a three-dimensional array (column 27, lines 58-59; though the

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Patent claim method is used with two-dimensional region, it is equally applicable for the three-dimensional region), comprising:

(a) defining a subset of a three dimensional array--- (column 27, line 60; defining a two-dimensional region is equally applicable for the limitation of defining a subset of a three-dimensional array of the instant claim; it is an obvious variation);

(b) defining at least one region within a two dimensional array--- (column 27, lines 60-61);

(c) defining a morphological mask having two dimensions--- (column 27, lines 64-67);

(d) defining a two-dimensional output array--- (column 28, lines 1-3);

(e) orienting said morphological mask--- (column 28, lines 4-5);

(f) computing, using a mathematical operation, a result based on the properties of said at least one set element and the corresponding elements of--- (column 28, lines 6-17);

(g) plotting the computed result--- (column 28, lines 18-21);

(h) repeating steps (e), (f) and (g) while moving said morphological mask --- (column 28, lines 22-26).

While the Patent claim includes additional features and limitations not recited by the instant claim, the use of the transitional term " comprising " in the instant claim fails to preclude the possibility of these additional features. Furthermore, dependent claims 54-55 and 60 of the instant application correspond to claims 2-4 of the Patent

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claims. Therefore, the instant claims do not define an invention that is patentable distinct from that mentioned by claim 1 of the Patent claim.

Other prior art cited

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Klevecz et al. (US 4,724,543) disclose a method and apparatus for automatic digital analysis.

Ravkin (US 6,259,807 B1) disclose an identification of interest using multiple illumination schemes and finding overlap of features in corresponding multiple images.

Bechwati et al. (US 6,128,365) disclose an apparatus and method for combining related objects in computed tomography data.

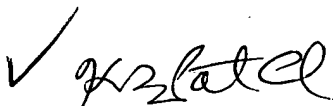
Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kanji Patel whose telephone number is (571) 272-7454. The examiner can normally be reached on Monday to Friday from 8:00 a.m. to 4:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta, can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kanji Patel
Art Unit 2625
5/13/05

✓ 
KANJIBHAI PATEL
PRIMARY EXAMINER